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October 7, 2024

Via ECF

Hon. Virginia K. DeMarchi,
United States District Court
Northern District of California, San Jose Division,
Robert F. Peckham Federal Building & United States Courthouse,
280 South 1st Street, Room 2112,
San Jose, CA 95113.

Re: *SVB Financial Group v. Federal Deposit Insurance Corporation,
as Receiver for Silicon Valley Bank et al.*, 5:24-cv-01321-BLF

Dear Judge DeMarchi:

I write on behalf of Plaintiff SVB Financial Group (“SVBFG”) respectfully to request that the Court reconsider the requirement in its October 6, 2024 order (the “Order”) that SVBFG review and log 10,000 documents per week from the 302,855 documents that SVBFG has identified as subject to a potential SVBFG-exclusive privilege (the “Reserved Documents”). It is not possible for SVBFG to meet the requirement that it review and prepare a detailed privilege log of 10,000 Reserved Documents per week because of the large number of attorneys with sufficient knowledge of the complicated issues implicated in SVBFG-exclusive privilege determinations that would be required to conduct the review. The Court is correct to note that a lower number of documents reviewed per week would mean that all 302,885 Reserved Documents could not be reviewed by the discovery deadline in this litigation. However, as even FDIC-R1’s proposed review prioritization schedule reflected, it is not necessary to review all Reserved Documents prior to the discovery deadline because a large number of the documents are not relevant to FDIC-R1’s potential setoff claims.

Finally, SVBFG intends to file an expedited appeal of the Order to address the Court’s determination that SVBFG is required to review and log documents not relevant to this proceeding. Both while that appeal is pending, and if the Order is affirmed by Judge Freeman, SVBFG will make its best effort to comply.

Hon. Virginia K. DeMarchi

-2-

For these reasons, SVBFG respectfully requests that the Court reconsider the portion of the Order requiring SVBFG to review 10,000 Reserved Documents per week and that the Court revise this requirement to 5,000 Reserved Documents per week.

Respectfully,

/s/ Robert A. Sacks
Robert A. Sacks